REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-5, 7, 8 and 10-18 are pending. No new matter is added. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Further, the remarks presented herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, the remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

A one (1)-month extension of time is requested. Authorization is given to charge the fee for the extension, or any additional fees for consideration of this paper, to Deposit Account No. 08-2525.

II. 35 U.S.C. §103 REJECTION

Claims 1, 4, 5, 8, 10-12 and 14 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,064,833. The Examiner believes that the instant invention can be extrapolated from the compound of Example 38 of the '833 patent. The Examiner is, respectfully, mistaken.

The compound of Example 38 of the '833 patent lacks a substituent on the 7-position of the quinazoline ring. Applicants' invention, by contrast, recites alkyl or amino at the 7-position. Assuming *arguendo* that the compound of Example 38 is the closest prior art compound, the requisite suggestion or motivation is lacking in the '833 patent that would lead one skilled in the art to modify this compound in order to derive Applicants' invention therefrom. As stated by the Court in *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-1784 (Fed. Cir. 1992): "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." Thus, the rejection is apparently hindsight reconstruction of Applicants' invention, which is impermissible and contrary to settled law.

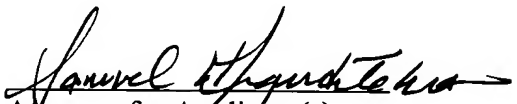
Further, the Examiner's reliance on the '833 patent amounts to at most a classic "obvious to try" scenario. That is, a skilled artisan would arguably believe that it is obvious to modify the compounds in the '833 patent in order to practice Applicants' invention. "Obvious to try," however, is not the standard under 35 U.S.C. §103. *In re Fine,* 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). And as "obvious to try" would be the only standard that would lend the Section 103 rejection any viability, the rejection must fail as a matter of law.

Consequently, reconsideration and withdrawal of the Section 103 rejection are respectfully requested.

CONCLUSION

In view of the remarks herewith, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The Examiner is invited to contact the undersigned to discuss any issues with respect to this application.

Respectfully submitted,



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